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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,100	12/21/2000	Michael Osterer	7415/0G540	1500

7590 08/27/2003
Melvin C. Garner
DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022

EXAMINER

ENATSKY, AARON L

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 08/27/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,100

Applicant(s)

OSTERER, MICHAEL

Examiner

Aaron L Enatsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

1. Examiner acknowledges receipt of Applicant's amendment on 6/18/03.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has amended independent claims 1 and 8 to include “*at least one server that automatically forms at least one virtual group*”. Applicant has also provided intended support for the above amendment on page 8, lines 5-10 of the instant specification. However, contrary to Applicants claim for support, the specification does not teach the methodology for a server *automatically* creating virtual groups. The specification merely teaches that groups are created. Examiner’s previous rejection met this limitation, providing that players can join groups based upon their preferences. However, assuming arguendo, Examiner has provided a rejection below that teaches the features Applicant believes are absent from the previous rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-15, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. '782 (Hereafter, Walker) in view of Walker et al. '272 (Hereafter, Walker '272) in view of Walker et al. '549 (Hereafter, Walker '549). Walker teaches a group lottery game (4:1-10) system having a server, a remote computer connected through a network like the Internet (9:11-20). Walker further teaches that server stores information about the group, including player registration, group rules (9:9-39), and information relating to a particular player (2:47-56). Walker also teaches that depending on the group rules, a winning maybe paid out to players automatically through the mail (12:5-12), or other means well known in the art (12:13-20). Additionally, a chat room is provided for group members to communicate over the Internet (13:14-16), group information can be changed over the Internet (9:31-40), and a member could monitor other members over the Internet (13:9-11), and users will authenticate to the server using a password (13:7-9). Furthermore, an administrative body can set rules. Walker does not mention limitations regarding lottery information, or automatic lottery purchasing. Walker '272 teaches a lottery game using remote terminals, a central computer, to purchase a lottery ticket that will be purchased or activated based upon a user's predefined information/instructions

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(Abstract), where this lottery information is stored in the server database (Fig. 4), and the lottery information could include purchase interval, volume (2:48-50), and notification (4:33-36). Both Walker and Walker '272 discuss a network system for playing a lottery, and Walker additionally teaches of player or game administrator definable rules for payout providing motivation to modify Walker to include aspects of Walker '272. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker's lottery game to further include automated rule based lottery purchases providing an easier method to purchase tickets. Walker in view of Walker '272 does not however teach the limitation of a central server automatically creating groups of participants based on predefined information. Walker '549 teaches a database driven online distributed tournament system that manages all aspects of group play and participation tournaments (Abstract). Walker '549 also teaches that the central controller will automatically create player groups that are based on predefined, player-entered information (7:47-56). Walker in view of Walker '272 and Walker '549 are related as network systems for facilitating group gaming activities. Wherein, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker in view of Walker '272 with the automatically created groups taught by Walker '549 so that game play can be more fun and the central server can better allocate players among group sections (7:54-56).

In re claim 5, group information can change subsequent to logging on to the server (Walker, 13:16-22).

In re claims 6 and 13-15, given that Walker provisions for information modification as discussed above and the nature of web enabled systems as well known in the art, it would have been obvious to have a mechanism to allow modification of other information as well as the

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lottery information, which would provide players better control over wagers/investments.

In re claim 12, as Walker teaches chat room communication between players, instant messaging is analogous with chat room communications, and it would be inherent that the system be able to tell who is online and indicate such, to facilitate communication.

4. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Walker '272 in view of Walker '549 and further in view of Yacenda '078 (Hereafter, Yac). Walker in view of Walker '272 in view of Walker '549 (Hereafter, Wal2) teaches the claimed limitations as discussed above, but do not teach game information selection. Yac teaches a network lottery game played over the Internet where players can accesses game information (Fig. 5, 7, and 8A). One would be motivated to combine the two references as both deal with network lottery games and their administration. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wal2 to include game information so players can be advised as to what type of games are available to purchase. Furthermore, information about available lottery games are typically always available before purchase and the web also typically associated with providing a multitude of relational information, making it obvious to one of ordinary skill in the art include game/ticket information.

Response to Arguments

5. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

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Citation of Pertinent Prior Art

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,352,479 to Sparks, II, teaches a networked, online game system that uses player data to appropriately match players to groups having similar player data features.

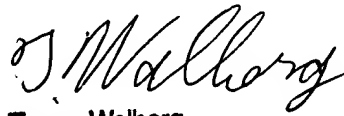
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8-6 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Aaron Enatsky
08/19/2003


Teresa Walberg
Supervisory Patent Examiner
Group 3700